

Orange County Sanitation District

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August 22, 2013

Thomas R. Adams, President
Tiodize Company, Inc.
5858 Engineer Drive
Huntington Beach, CA 92649-1166

SUBJECT: Metal Finishing Pretreatment Standards - New Source Determination

The Orange County Sanitation District (OCSD) has received and reviewed Tiodize Company, Inc.'s (Tiodize) letter signed by Gary Wittman of your staff and dated July 24, 2013, expressing disagreement to OCSD's revision of Tiodize's Class I Permit No. 11-1-132 from the Electroplating category to the Metal Finishing category subject to Pretreatment Standards for New Sources (PSNS).

In the letter Tiodize claims that no significant changes have been made to its process lines since August 1982 other than the splitting of one of its three titanium cleaners into two tanks and the addition of three new dye tanks. However, OCSD has conducted a detailed evaluation of Tiodize's manufacturing process information and equipment layout dated March 1995, and compared them against the process information from June 2013. The comparison revealed that Tiodize has added new tanks to its process lines since 1995, which are summarized as follows:

- Addition of water-based degreasers I, II, and rinse
- Addition of aluminum stripper
- Addition of dark brown dye, olive drab dye, and violet dye
- Addition of penetrant oil P-134, fluorescent penetrant, and rinse
- Addition of titanium cleaning solution "BOEING" and rinse
- Change of approximately eight process tanks to larger volume tanks
- In addition, new piping construction at the counter-current rinses was also confirmed during the OCSD inspection conducted on June 19, 2013.

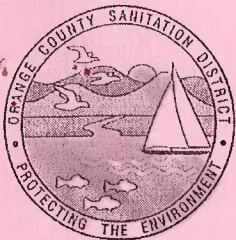
OCSD has evaluated these findings under applicable regulations and concluded that all the above-mentioned additions and equipment replacements (change to larger volume tanks) have created new sources.

On July 17, 2013, OCSD met with Tiodize to discuss the necessary reclassification of Tiodize's permit from the Electroplating category to the Metal Finishing PSNS category. To clarify the PSNS regulations, OCSD provided Tiodize with a copy of a Memorandum from the U.S. Environmental Protection Agency (EPA) dated September 28, 2006, from the Office of Wastewater Management Office of Water to Regional Water Division Directors, regarding "New Source Dates for Direct and Indirect Dischargers."

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The EPA Memorandum explains the following:

*The Clean Water Act (CWA) defines new sources as those constructed after the new source date. EPA emphasizes that a source, whether it is a direct or indirect discharge, may be either something as large-scale as a facility or **something as small as a piece of equipment installed as part of an existing operation.** The CWA defines "source" to include "any building, structure, facility, or installation" and defines construction to include "**any placement, assembly, or installation of facilities and equipment.**" Thus, under the CWA, "**construction**" refers both to the construction of any building, structure, or facility, **and to the installation of equipment.** A "new source" then, is the placement, assembly or installation of facilities **or equipment** which commenced after the new source date. (Emphasis added).*

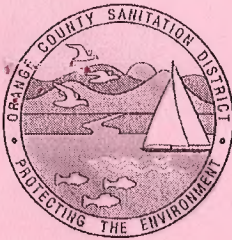
The CWA imposes more stringent requirements on new sources based on the concept that new facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. On October 17, 1988, (53 FR 40610), the EPA promulgated the definition of a new source under 40 CFR 403.3(k). The relevant provisions of this rule state:

(1) The term New Source means any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.



(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (k)(1)(ii), or (k)(1)(iii) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

The new source date for the Metal Finishing category is August 31, 1982, (see 47 FR 38478) as this was the date that the EPA proposed pretreatment standards for new source under 40 CFR Part 433 for metal finishing operations. EPA consequently promulgated these standards on July 15, 1983, (48 FR 32487). The construction of Tiodize's new process tanks (as mentioned above, which constitutes equipment installation) since 1995 and the discharge of pollutants from those operations occurred after the new source date. Consequently, Tiodize's discharge operations have to be regulated as a new source under the Metal Finishing PSNS category as specified in 40 CFR Part 433.

This letter is written as a courtesy to Tiodize to provide further clarification for OCSD's determination and please note that OCSD's decision is final. OCSD expects Tiodize to work towards full compliance with the new source requirements.


If you have any questions, please contact Jane Tran of my staff at (714) 593-7441 or jtran@ocsd.com.

James E. Colston
Manager, Environmental Compliance Division

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C: Roya Sohanaki, Engineering Supervisor
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During my absence on VAC
This letter was
mailed, but not
certified mail.